

Our File No. 11-9540-6520-0000-5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: David Harris
Serial No.: 10/688,173
Filed: October 17, 2003
For: LOCKING FASTENER
ASSEMBLY
Examiner: Flemming Saecker
Group Art Unit: 3677

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Trademark Office, Fax No. (571) 273-8300 on
October 4, 2005.

Dana Andrew Alden

Registration No. 46,475

APPELLANT'S BRIEF

Mail Stop Appeal Brief-Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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1599-00-00

I. REAL PARTY IN INTEREST

The appellant has assigned all right, title and interest in and to the above-identified application and invention to the MacLean-Fogg Company, a corporation of Delaware having a principal place of business at 1000 Allanson Road, Mundelein, Illinois 60060.

II. RELATED APPEALS AND INTERFERENCES

Application number 10/430,794, filed May 5 2003, is under appeal. Application number 10/430,794 is a continuation-in-part of application number 09/933,312. The present application is a continuation of application number 09/933,312.

III. STATUS OF THE CLAIMS

Claims 1-17 were originally presented in the application. Via a Preliminary Amendment, Claims 1-17 were cancelled and claims 18-24 were added. Claims 25 and 26 were added prior to final rejection. In a Final Office Action dated November 2, 2004, all claims, except Claim 22, were allowed. The rejection of Claim 22 is currently appealed.

IV. STATUS OF AMENDMENTS

No amendments were tendered subsequent to the final rejection.

V. SUMMARY OF THE INVENTION

The invention recited in claim 22 is embodied in a locking fastener assembly 50 (Harris, Figure 1) that includes a fastener nut 52 (Harris, Figure 3) and a fastener washer 54 (Harris, Figure 3). *See* Harris, Pg. 6, ll. 3-4. The fastener nut 52 and the fastener washer 54 are rotatable relative to each other about a common axis. *See* Harris, Pg. 9, ll. 16-17.

The nut 52 includes an annular washer bearing surface 72. *See* Harris, Pg. 6, ll. 18-20 and Figure 9. The washer 54 includes an annular nut bearing surface 84. *See* Harris, Pg. 6, ll. 24-25 and Figure 10. The annular bearing surface 72 and the annular bearing surface 84 are axially opposed to each other about a common axis. *See* Harris, Pg. 9, ll. 28-30 and Figure 3.

The annular bearing surface 72, 84 on the respective nut 52 and the washer 54 are provided with a plurality of inclined bearing faces 73, 116, respectively, that form portions of the respective undulating annular bearing surfaces 72, 84. *See Harris, Pg. 7, ll. 26-30, Pg. 8, ll. 18-22, and Figures 8-10.*

The washer 54 includes a washer body 82. *See Harris, Pg. 6, ll. 24-25 and Figure 3.* The washer 54 includes a flange 92 that extends radially outward from the washer body 82. *See Harris, Pg. 6, ll. 26-28 and Figures 5 and 6.* The washer 54 includes a clamping surface 86. *See Harris, Pg. 6, ll. 24-26.* At least a portion of the clamping surface 86 is formed on the washer flange 92. *See Harris, Pg. 6, ll. 24-28 and Figure 6.*

The washer flange 92 includes a series of flange segments 106 that extend annularly around the washer body 82. *See Harris, Pg. 7, ll. 12-17 and Figure 4.* The flange segments 106 are slightly flexible axially of the washer 54. *See Harris, Pg. 7, ll. 12-14.* The flange segments 106 are separated by radial slots 98 in the flange 92. *See Harris, Pg. 2, ll. 28-31 and Figure 4.*

VI. ISSUES

Whether Claim 22 is patentable under 35 U.S.C. § 102(b) over Fleischmann, U.S. Patent No. 889,593?

VII. GROUPING OF CLAIMS

Claim 22 is the only claim appealed.

VIII. ARGUMENT

The Examiner has rejected claim 22 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 889,593 to Fleischmann ("Fleischmann"). However, to reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim limitation is identically disclosed in a single prior art reference. (See *Scripps Clinic & Research*

Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). "The identical invention must be shown in as complete detail as is contained in the claim." M.P.E.P. § 2131. For the reasons that follow, the rejection of independent claim 22 should be withdrawn. Because claim 23 depends from base claim 22, it too is allowable and the objection thereof should also be withdrawn.

The rejection of claim 22 should be reversed because Fleischmann does not disclose each and every claim limitation of claim 1 identically. According to the Office Action, "Fleischmann discloses a locking fastener assembly comprising a nut (9), a washer (1). The nut and washer having annular bearing surfaces (10, 3) with inclined bearing faces (12, 7) being rotatable relative to one another. The washer having an opposite clamping surface with a body portion (opposite bearing surface 3) and flange. The flange including plural segments (5) separated by radial slots (4)."

However, Applicant respectfully points out that Fleischmann does not disclose a washer with an annular bearing surface "having a plurality of inclined bearing faces oriented circumferentially and forming portions of an undulating annular bearing surface." Fleischmann teaches a flat surface with four "spear headed or pointed ears 7." Fleischmann, Col. 2, ll. 64-65. Plainly, the flat surface of Fleischmann, interrupted at four discrete points, simply does not constitute an "undulating" surface.

Furthermore, Fleischmann affirmatively states that the "bearing surface" is "flat," not "undulating" as recited in Claim 22. In Fleischmann, the ears 7 act as "stops" with the base surface 3 of the washer acting as the bearing surface. Fleischmann, Col. 2, ll. 70-74. As stated clearly in Fleischmann, the base surface 3 of the washer is "a flat circular portion 3 which forms a base upon which the nut ... rotates." Fleischmann, Col. 1, ll. 45-47. Consequently, as Fleischmann makes quite


clear, the annular nut bearing surface on the washer is "flat," not "an undulating annular bearing surface." Therefore, Applicant respectfully requests that the rejection of claim 22 be reversed.

IX. CONCLUSION

In view of all of the above, it is believed that Claim 22 is allowable. It is therefore respectfully requested that the rejection of Claim 22 be reversed and that the present application issue as early as possible.

Respectfully Submitted,

Dated: October 4, 2005

By: 
Dana Alden
(Reg. No. 46,475)

APPENDIX

CLAIMS

Claim 22:

A locking fastener assembly, comprising:

- a) a fastener nut and a fastener washer rotatable relative to each other about a common axis;
- b) an annular washer bearing surface on said nut and an annular nut bearing surface on said washer, said annular bearing surfaces being axially opposed to each other;
- c) each of said annular bearing surfaces having a plurality of inclined bearing faces oriented circumferentially and forming portions of an undulating annular bearing surface;
- d) a clamping surface on said washer;
- e) said washer including a washer body and a flange extending radially outwardly from said washer body;
- f) at least a portion of said clamping surface being formed on said washer flange;
- g) said washer flange comprising a series of flange segments extending annularly around said washer body;
- h) said flange segments being slightly flexible axially of said washer; and
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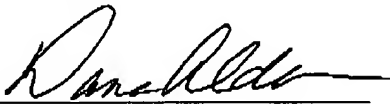
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- c) each of said annular bearing surfaces having a plurality of inclined bearing faces oriented circumferentially and forming portions of an undulating annular bearing surface;
- d) a clamping surface on said washer;
- e) said washer including a washer body and a flange extending radially outwardly from said washer body;
- f) at least a portion of said clamping surface being formed on said washer flange;
- g) said washer flange comprising a series of flange segments extending annularly around said washer body;
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- h) said flange segments being slightly flexible axially of said washer; and
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